IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 27356 of 2007(F)

PETITIONERS:

1. CHRISTU DAS ,S/O. JESUDAS, AGED 44,
   RES. AT JUDGE LANE
   D-26,SANTHAMANGALAM, THIRUVANANTHAPURAM.

2. BABY STELLA BAI,W/O. CHRISTU DAS,
   RES. AT JUDGE LANE D-26,SANTHAMANGALAM,
   THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAMASWAMY PILLAI
SRI.P.M.JOSEPH

RESPONDENTS:

1. UNION OF INDIA,REPRESENTED BY SECRETARY
   MINISTRY OF FINANCE,GOVERNMENT OF INDIA,
   NEW DELHI.

2. THE ICICI BANK LTD.,REPRESENTED BY ITS
   MANAGING DIRECTOR,HAVING ITS HEAD OFFICE AT
   "LAND MARK" ALAKAPURI,RACE COURSE ROAD,
   VADODARA, MUMBAI.

3. THE ICICI BANK LTD.,REPRESENTED BY ITS
   MANAGER,RAPG DIVISION,2ND FLOOR,KOROALA TOWERS,
   GANAPATHY COIL STREET, VAZHUTHACAUD,
   THIRUVANANTHAPURAM-14.

4. THE ICICI BANK LTD.,REPRESENTED BY ITS
   COLLECTION MANAGER, RETAIL ASSETS DIVISION,
   2ND FLOOR, KERALA KOROALA TOWERS,
   GANAPATHY COIL STREET, VAZHUTHACAUD,
   THIRUVANANTHAPURAM-14.

BY ADV. SRI.KKM.SHERIFFOR R2 TO R4
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SRI.P.PARAMESWARAN NAIR FOR R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 27356/07

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE SCHEDULE CUM DETAILS OF THE TITLE DEEDS DEPOSITED BY PETITIONERS BEFORE THE RESPONDENT BANK DT. 6.1.07

EXT.P2. COPY OF REQUEST ISSUED BY THE 4TH RESPONDENT

EXT.P3. COPY OF THE ORDER DT. 17.12.06 OF LOK ADALAT

EXT.P4. COPY OF THE LETTER ISSUED BY 4TH RESPONDENT DT. 3.1.07

EXT.P5. COPY OF THE NOTICE DT. 6.7.07 ISSUED BY 4TH RESPONDENT

EXT.P6. COPY OF THE LETTER DT. 30.8.07 ISSUED BY RESPONDENTS TO THE PETITIONERS

EXT.P7. COPY OF LETTER DT. 14.8.07 ISSUED BY THE PETITIONERS BEFORE THE RESPONDENTS

/TRUE COPY/

PA TO JUDGE.

ANTONY DOMINIC, J.

W.P.(C). NO. 27356 OF 2007

Dated this the 15th day of October, 2007

J U D G M E N T

Petitioners, who are debtors to the 3rd respondent Bank, seek a direction to accept payment of the amount awarded in Ext.P3 and return the documents deposited by them. Ext.P3 provides that an amount of Rs.4,14,479/- has to be paid by the petitioners before 15.1.07 failing which the bank is entitled to recover an amount of Rs.4,58,689.23 along with contractual rate of interest. This the petitioners could not comply. Therefore the default clause in Ext.P3 operates against the petitioners. Petitioners submit that the contractual rate is 7.4% and that they are willing to remit an amount of Rs.4,58,689.23/- with contractual rate of interest. However, the apprehension is that even on deposit the respondents will not release the documents deposited by them. Learned Standing Counsel for the respondent Bank submits that endeavour will be made to release the documents as expeditiously as possible.

2. Having heard the submission made by both sides I am inclined to hold that once the liability covered by Ext.P3 is discharged, the respondents cannot delay release of the documents, if the same are not required for any other purpose.

Accordingly, I dispose of this writ petition directing that the petitioners shall deposit an amount of Rs.4,58,689.23 with contractual rate of interest. On such deposit, within 10 days thereafter, the respondents shall release the documents deposited by the petitioners if the documents are not required towards any other liability incurred by the petitioners.

ANTONY DOMINIC, JUDGE

vps